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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States Parties

AUSTRIA

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I. General

In accordance with Art.8(1)(a) of the Convention on the Elimination of All Forms of Discrimination against Women, the Republic of Austria for the first time submits a report on the implementation at the national level of the Convention. Austria has ratified the Convention as a treaty amending and supplementing Austrian law, with its Articles 1-4 being additions to the Constitution.

In doing so, the Republic of Austria has adopted the view that the provisions of the Convention cannot be applied directly within the framework of the domestic legal order but require specific legislation to give them effect.

In pursuit of those aims which are also the aims of the Convention, Austria even prior to the ratification of the Convention engaged in efforts to improve the social status of women as well as their educational and vocational opportunities. Notably in the last few years, Austria introduced substantial statutory amendments to improve the situation of women (e.g. the Equal Treatment Act which will be explained in greater detail below).

Essentially the Convention represents a substantive and formal development of the general principle of equality. This principle is enshrined in several of the provisions of Austrian constitutional law concerning fundamental rights: in Art.7 of the Federal Constitution, in Art.2 of the Basic Law on the General Rights of Citizens and in Art.66(1) of the Treaty of St. Germain, moreover, in Art.6 of the State Treaty for the Re-establishment of an

Independent and Democratic Austria, a provision which has constitutional status. Going beyond the historical content of the imperative of equal treatment before the law, which comprises inter alia the objective of the present Convention, the jurisprudence of the Constitutional Court has developed this imperative into a prohibition of any unfair differentiation and any arbitrariness, a prohibition binding both on the legislature and the executive. In addition, Art.14 of the European Convention on Human Rights bans any discrimination in the granting of the rights protected by that Convention, and that Article ranks as a constitutional provision in Austria.

Besides the principle of equality, Austrian law comprises numerous other provisions, both at the constitutional level and at the level of ordinary federal legislation, whose purpose it is to prevent the discrimination of women within the framework of the Austrian legal order. Primarily to be mentioned in this context are the International Convenant on Civil and Political Rights of 19 December 1966 (especially its Art.3), the Convention on the Political Rights of Women of 31 March 1953, the European Social Charter (Art.4(3) giving male and female workers the right to equal remuneration for equal work), Convention No.100 of the International Labour Organisation concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, Convention No.111 on Discrimination in Employment and Occupation as well as the Equal Treatment Act mentioned earlier.

General observations on the question of equal treatment of men and women are also to be found in the Constitutional Court's decision of 26 June 1980, G6,25 and 54/79,concerning the "widower's pension". Here the Constitutional Court says inter alia: "The number of working women has by now grown substantially (according to the information submitted in the course of this case, in 1978 38.9% of married women were working, of whom only 20% were working part-time) and the abandonment in family law of the model of the housewife marriage favours the decision to pursue a career among married women. Although this trend will only affect pension arrangements for surviving dependants after

a considerable time lag (at present about 5% of those receiving widow's pensions are earning incomes of their own and about 17.5% are receiving an old age pension of their own in addition to their widow's pension) it has already assumed proportions which no longer justify an insistence on the older role pattern of husband and wife as being the only appropriate one in this context. Nor can the existing sharp difference in the treatment (in terms of pension law) of men and women be justified e.g. by the typical income differential unfavourable to women, because a régime based on the maintenance situation, of the kind of the provisions under examination, can take account precisely of the concrete differences in incomes." For these reasons the Constitutional Court rescinded provisions which gave only a widow but not a surviving husband a right to receive a pension.

The wording of the preamble to the Convention as well as the wording of many of its articles suggests that in order to put the Convention into effect not only legislative measures are considered suitable and necessary, but that the Convention also entails obligations to take practical measures in order to eliminate actually existing discriminations against women. Hence the implementation of the Convention also calls for steps by state-owned business enterprises and for political activities.

Besides legal reforms, it is of particular significance, according to the Convention, that the general social consciousness should also incorporate the aims of equality and partnership. Therefore it is also necessary for Austria - after legal equality has largely been established - to take a number of steps to promote the awareness of these needs. In this context it is appropriate to refer to a number of activities accomplished by the Office of the State Secretary for General Questions relating to Women in the Federal Chancellery and the Office of the State Secretary for Matters relating to Working Women in the Federal Ministry of Social Affairs, which latter Office existed from November 1979 to April 1983:

A. Office at the State Secretary for General Questions relating to Women:

1. Under the title "Self-confidence can be learnt" the Office began to set up a network of self-confidence seminars for women throughout Austria. In the autumn of 1981 49 seminars started all over the country, and as soon as spring 1982 17 more seminars had to be organised to meet the demand. In the autumn of 1982 89 seminars were conducted throughout Austria.

2. In Austria, as in other countries, some women - though it is hard to say how many - are still exposed to marital violence. This regrettable phenomenon was brought to the notice of the public through a number of information meetings, while practical steps were at the same time taken to assist places of asylum for mistreated women and their children, thus achieving at least partial solutions to the problem. At the time of writing there are in Austria seven institutions of this type for the protection of mistreated women and their children.

3. Education is of especial significance in this work to form social awareness. Hence the Federal Government on 22 January 1980 decided to set up an interdepartmental working group to deal with matters specifically relating to women in the field of education.

   The key subjects of the discussions so far held and of the ensuing activities have been the following:

   (a) ways of presenting men and women in school textbooks and the preparation of guidelines for authors and officials responsible for evaluating textbooks;

   (b) additional teacher training: teachers are offered special seminars on the problems of role-specific education;

   (c) materials for additional teacher training and for the classroom have been prepared, such as a special issue of the journal "Erziehung und Unterricht" (Education and Instruction) on women in the community and a film on the problems of gender roles.

Conjointly with a publishing house, the Office organised a short story competition under the motto "Girls may whistle - boys may weep". 16 stories were awarded prizes and were published as a book in November 1981. The aim of the book is to help to oust traditional clichés from children's books.

4. The media are of especial importance to the formation of mental attitudes. Hence a project called "Media Observation" was launched primarily to encourage television watchers to develop a critical attitude towards the way television presents women. The project was a great success, with many schools and women's groups taking part. Following the project, three seminars were held with the responsible executives of Austrian Radio and Television where its results were presented and discussed.

5. Many activities organised jointly with women's organisations and groups offered opportunities to publicise specific topics. This kind of hearings and women's forums moreover represents a very fruitful form of cooperation with women's organisations from all sectors of the political and ideological spectrum, whilethe openness of such forums at the same time enables women not belonging to organisations to state their views on each topic.

   So far these non-partisan activities have covered the following topics:

   - More women in politics - a good thing for everyone?
   - Emancipation - no one-way street
   - Possibilities for and limits to partnership
   - More opportunities for women?
   - Being a woman in the Tyrol
   - Housewife and career woman: a contradiction?
   - Women on the move
   - Violence in the family
   - The working environment - an environment for women?
   - Division of labour - division of functions

- Can masters become partners?
- Does being a woman make one ill?
- Discrimination against women - protection and encouragement of equal treatment before the law
- Girls - yesterday, today, tomorrow

6. Numerous publications helped to raise the level of information on questions concerning women. Some of their titles /translated from German/ are as follows:

- An analysis of female employment in the federal public services
- Women in Austria - balance sheet and outlook
- The long way - publication of the UN world action plan in 12 instalments (so far seven instalments have been published)
- Patriarchalism in 1981 or the struggle for partnership in the household
- What should I do if ... we are getting divorced?
- Let's do more for women in the federal public services

B. Office of the State Secretary for Matters relating to Working Women in the Federal Ministry of Social Affairs

The Office mainly concentrated its work on efforts to ensure equal treatment of women as regards wages and salaries as well as efforts to abolish piecework and eliminate the split labour market for women and men as well as, in close connection with these objectives, the querying of "male" and "female" role behaviour patterns and the improvement of the level of vocational information. In particular, the following activities have been pursued:

1. Equal treatment of women as regards wages and salaries.
A study commissioned by the Office of the Secretary of State on income differentials between women and men over the last 25 years clearly demonstrated that these differentials have not narrowed. Although some of the causes of this situation lie in the higher proportion of part-time work and the distinctly lower level of training of women in the manual sector - in the white-collar sector women have by now largely caught up as regards training - nevertheless these differentials

are by no means explicable by these factors alone.

The Equal Treatment Act described in the comments on Art.2 has not so far brought about a radical change in this respect. However, the study also examined the effects of the Equal Treatment Act on collective agreements. It was found that the parties concluding collective agreements are willing to eliminate open discrimination from such agreements.

But women are still assigned to the lowest wage classes, and women's work continues to be valued much less than work done by men. The small number of cases so far placed before the Equal Treatment Commission created under the Equal Treatment Act (see the remarks on Art.2) clearly shows that much more has to be done here. Hence the Office of the State Secretary in the Federal Ministry of Social Affairs conducted a broad information campaign to encourage female workers as well as shop stewards to pay more attention to these questions. Posters, leaflets, brochures and radio spots sent to all regional studios pointed to the possibility to appeal to the Equal Treatment Commission.

2. Efforts to abolish piecework

Several studies, including a Special Programme research project, analysed the workload of women doing piecework.

These researches clearly showed that piecework is characterised by an accumulation of negative work conditions which in sum lead to significant health hazards for women doing piecework.

3. In order to eliminate the split labour market, the Federal Ministry of Social Administration launched a Special Programme to increase the proportion of women in those occupations requiring a period of apprenticeship where the proportion of women is currently low. The Programme comprises monthly subsidies to employers. In 1982 350 apprentice posts were subsidised, and in 1983 there are funds available for subsidising 500 posts.

In a three-year research programme 100 girls in Vienna active in non-traditional occupations were accompanied throughout their apprenticeship.

Two touring exhibits shown in schools, at trade fairs and at exhibitions drew the attention of parents and young women to non-traditional occupational choices.

Other steps to eliminate the split labour market include the production of wall newspapers and posters designed by 12-14 year-old pupils (e.g. in the context of the official Austrian award to young poster designers for posters advocating equality between women and men).

In order to modify role awareness, seminar guidelines (on women and men in the working environment) and partnership games are being produced. There has also been a public hearing on "Do Men have to live less long?"

4. In order to improve the level of occupational information, the Office and the Federal Ministry of Education and the Arts as a first step jointly prepared a set of classroom materials addressed to sixth-graders and their teachers. Again the set emphasises the choice of non-traditional vocations by young people. Work on this programme is being continued.

5. A number of research projects have analysed the possibilities for parental leave (i.e. maternity leave for either parent) and working conditions for women in different industries and regions.

6. Other activities by the Office included improved vocational training for female prisoners and the programme "Hello, Colleague" which provided direct and unbureaucratic help to women looking for a job or having problems with regard to retirement pensions or labour law etc.

When the Office of State Secretary for Working Women in the Federal Ministry of Social Affairs was disbanded in 1983, a special unit for women's problems was created within the framework of the Ministry.

The following further awareness-promoting activities to eliminate all forms of discrimination against women pursued within the framework of the Federal Ministry of Social Affairs are worth mentioning:

1. General matters concerning working women:

   (a) Promoting equality of opportunity and equal treatment of working women: Activities of a tripartite committee for labour market matters concerning women, assisted by liaison officers (female) active in the various regional employment services; e.g. increased integration of women into social, economic and political decision processes, improvement of vocational, especially technical, basic and further training for women.

   (b) Studies, information and education

   One of the aims in the context of efforts to improve the social and professional standing of female workers relates to information and publicity and to the publication of the studies initiated and of basic scientific materials from Austria and abroad in order to provide the necessary background for decisionmaking by persons and institutions concerned with labour law, social policy and employment policy as well as focussed information and education materials for the workers concerned.

   The results of new studies are published e.g. in a series of publications on the social and professional status of women (to date 15 brochures) and a series on work and labour relations (to date 3 brochures).

2. In relation to matters concerning national and international organisations and services with regard to labour relations and the status of women, the Ministry exercises a sort of clearing house function: information on international recommendations is supplied to Austrian departments, professional bodies, nongovernmental organisations etc. for appropriate national action, and Austrian employment and social policies, comments and analyses are compiled for reporting to international organisations.

3. A further significant activity for the problems of working women in Austria is Austria's cooperation with intergovernmental organisations, e.g.:

OECD Working Group 6 "The Role of Women in the Economy" (Austria has chaired the Group since 1981);

Council of Europe Expert Committee on Equality between Women and Men (where Austria has been a member of the Bureau since 1982);

Council of Europe Seminar on the Contribution of the Media towards Promoting Equality between Women and Men, June 1983 (Austria was in the chair).

4. In the interests of promoting equality of opportunity and equal treatment for working women, the Ministry organises and takes part in national and international symposia, hearings, conferences and debates between experts, e.g., as a follow-up activity to the 1978 international symposium on "Women in Labour Relations", the international symposium "Changes of Attitudes to Work in Industrial Countries: Implications for and Effects on Labour Relations" held in April 1982 conjointly by the Ministry and IILS (the International Institute for Labour Studies).

II. Specific

This part summarises the steps taken by Austria to put the individual substantive provisions of the Convention into effect.

Art.1

The prohibitions of discrimination contained in the Convention keep within the framework of the ban on discrimination already enshrined in Austrian legislation on fundamental rights, and within the framework of the relevant jurisprudence of the Constitutional Court. Hence the principles contained in Article 1 are effective also in the sphere of domestic law.

Art.2

By this Article, the States Parties undertake "without delay" to pursue a policy of eliminating discrimination against women.

The objective - to ensure the acceptance of the ban on discrimination also in relations between private persons - is to be reached, according

to the Convention, by appropriate "flanking" provisions of civil and where necessary criminal law. An example of such provisions is the Austrian Equal Treatment Act mentioned earlier, which generally forbids discrimination on the basis of sex in collective and individual wage bargaining in the context of private-law employer-employee relationships. Complaints of such discrimination shall be made to a commission (the Equal Treatment Commission) set up for that purpose. The Commission is empowered to pronounce a recommendation to the employer to cease practising discrimination. If the employer does not follow the Commission's recommendation, the labour court can be asked for a declaratory judgment. Since its creation in 1979, the Equal Treatment Commission has held 13 sessions. It has dealt with 9 cases submitted to it.

In the public service, as part of the government administration, it is mandatory for the agents of the employer to conform to the existing laws. The latter, in view of the stipulation of Art.7 of the Federal Constitution, do not contain any discrimination on the basis of sex within the meaning of the Convention.

In order to eliminate any de facto discrimination of women in the public service, the Federal Government on 10 November 1981 adopted an "Assistance Programme for Women in the Federal Service ".

Art.3

This fundamental provision was treated as an addition to the Constitution because of its explicit reference to human rights and fundamental freedoms. In accordance with the systematic structure of the Convention, however, in Austria's view no rights are formulated which could be directly invoked on the basis of the Convention; rather, the latter requires the States Parties to take appropriate measures in all fields in order to ensure the full development and advancement of women and to guarantee that all women can exercise and enjoy human rights and fundamental freedoms on a basis of equality with men. We have the honour to refer in this context to the introduction to this Report as well as to the notes on the rest of the Articles of the Convention.

Art.4

The need to treat this Article as an addition to the Constitution resulted from the fact that it considers certain measures as not discriminatory against women within the meaning of Art.1, and hence provides an authentic interpretation of the definitions contained therein.

Art.4(2) provides that special measures aimed at protecting materni shall not be considered discriminatory. In the light of the interpretation of the principle of equality evolved in Austria by doctrine and jurisprudence, however, objective justification will also have to be presumed for any such measure.

In this connection reference may also be made to Art.10(2) of the International Convenant on Economic, Social and Cultural Rights ratified by Austria, which provides special protection to mothers before and after childbirth. In domestic law, the Protection of Mothers Act 1979 deserves particular mention.

Essentially the Act provides as follows:

Expectant mothers may not be required to work in the last eight weeks before the expected date of delivery.

Expectant mothers may not be assigned strenuous physical work or work hazardous for a pregnant woman or the baby on account of the processes, substances or equipment used.

Expectant mothers may not be assigned work which exposes them to specific accident risks in their state of pregnancy.

Female workers may not be required to work for eight weeks after delivery. After a premature or multiple birth this period is twelve weeks.

Over and above these periods, female workers after childbirth may not be assigned work as long as they are not fit for work.

Female workers may not be assigned certain types of work enumerated in the Protection of Mothers Act for 12 weeks after delivery.

Expectant or nursing mothers may not generally be assigned work between 8 p.m. and 6 a.m.

Expectant or nursing mothers may not generally be assigned work on Sundays or public holidays.

Expectant or nursing mothers may not be required to work longer than normal daily working hours; on no account may their weekly worktime exceed 40 hours.

Female workers may not be given legally effective notice during pregnancy and for 4 months after delivery, unless the employer does not know about the employee's pregnancy or delivery.

Notice is also ineffective where the fact of pregnancy or delivery is notified to the employer within five work-days after he has given notice, or in case of written notice within five work-days after notice has been served.

Where the application of prohibitions to assign certain types of work requires changes in the employment structure of the firm, a female worker is entitled to remuneration equal to her average earnings during the 13 weeks on her job preceding such changes.

At their request female workers must be given unpaid maternity leave following the period where they are prohibited to work after delivery, and such leave may last for up to one year after delivery. In case of unpaid maternity leave, protection against notice or dismissal extends until four weeks after the end of the unpaid maternity leave.

Reference may also be made to the Federal Act of 30 June 1982 on the assignment of helpers (or payment of a weekly allowance) to mothers active in business, farming or forestry. This Act removed a disadvantage for self-employed women in comparison with employees. Now self-employed women can use the services of a helper for the time of the absolute prohibition of work (8 weeks preceding and following childbirth), or where this is impossible they can draw a weekly allowance. The expenditure is refunded by the health insurance scheme.

Art.5

In Austria's view this Article has a programmatical character, because it requires States Parties to take appropriate measures to modify the social and cultural patterns of conduct of men and women. Measures to achieve the objectives contained in the Article are primarily taken in the framework of schooling. This is particularly true of such far-reaching goals as "to modify ... practices which are based ... on stereotyped roles for men and women".

In this context it may be recalled once again that the Office of the State Secretary for General Questions relating to Women in the Federal Chancellery in 1980 set up an interdepartmental working group to deal with specific questions relating to women in the framework of the country's system of education. The group has been active trying to put the objectives of Art.5 of the Convention into practice with respect to the contents of textbooks as well as in the context of continuing teacher education. Guidelines on how to present men and women in textbooks have been prepared and forwarded to authors, publishing houses and officials responsible for reporting on the suitability of textbooks.

Moreover, teaching materials for civic education are prepared by "central working groups" in the Federal Ministry of Education and the Arts for each subject and type of school, and in this context, too, the question of roles is discussed. These materials are given to teachers as suggestions for use in the classroom according to their own methods and concepts.

These guidelines refer to the status of women and men in the family, in the working environment, in public life, and in culture and leisure activities, as well as to human relations and the relationship between work and family life with its potential tensions. In this context, moreover, publications on this topic have been prepared and have received financial assistance.

Other information activities in the spirit of Art.5(a) were launched by the Federal Ministry of Social Administration which published a study on "Women and the World of Work on Austrian Television"

and a report on "Women and the Media: International Impulses National Activities" (both in German).

Art.6

So far as legal provisions need to be adopted in order to combat the offences and dangers referred to in this Article, reference is firstly made to the preventive effect of numerous relevant provisions of family law and administrative law, including in particular legal provisions in the area of public security and morals contained inter alia in police laws adopted by the constituent states, youth protection laws and similar statutory enactments.

Moreover, there are special prohibitions in criminal law which serve the purpose of suppressing all forms of traffic in women and exploitation of prostitution, notably the provisions directed at the following offences: "abduction of a helpless or defenceless woman (s.100), "abduction of a minor (s.101), "slave traffic" (s.104), "promotion of immorality by others for reward" (s.214), "promotion of prostitution" (s.215), "procuring" (s.216) and "trade in human beings" (s.217).

Art.7

As regards voting rights, a similar provision is already contained in Art.I of the Convention on the Political Rights of Women of 31 March 1953. A provision on the right to be eligible is contained in Art.II of that Convention, while the latter's Article III refers to access to public office and public functions.

Art.26, 60, 95 and 117 of the Federal Constitution, Art.8 of the State Treaty of Vienna, and Art.3 of the 1st Protocol to the European Convention on Human Rights in conjunction with its Art.14 safeguard the right to vote and to be eligible equally for men and women. With respect to the right to free access to public office and public functions, reference is made to Art.3 of the Fundamental Law on the General Rights of Citizens, which assures all citizens without distinction as to sex of that right.

From the equality stipulated by this Article, however, one cannot deduce a right for women to do military service. Already upon ratification of the Convention on the Political Rights of Women, the Austrian Federal President therefore declared that Austria reserved the right to apply Art.3 of the Convention to military services only within the limits of national legislation. For the same reasons a similar reservation was made with regard to Art.7(b) of that Convention.

Art.8

As regards public service regulations, reference is made to the notes on Art.2 with respect to the general position. It may be added that it is current practice in Austria to ask women to represent the country at the international level, including participation in the work of international organisations.

Additional encouragement in this respect is likely to come from Recommendation No.R(81)6 of the Committee of Ministers of the Council of Europe regarding the participation of men and women in an adequate ratio in the committees and other bodies of the Council of Europe, and from the annual statistics of the Council of Europe's bodies on the de facto proportions of women.

Art.9

Already the Nationality Act 1965, which took effect on 1 July 1966, made married women independent in terms of nationality law.

As regards the acquisition of Austrian Nationality, prior to the entry into force on 1 September 1983 of an Amendement to the Nationality Act an Austrian national's wife was clearly in a privileged position in comparison with other persons, especially an Austrian national's husband or women not married to Austrians. Since 1 September 1983 men and women have been placed on an equal footing with regard to the acquisition of Austrian nationality.

Austria is one of the States Parties to the UN Convention on the Nationality of Married Women. Under Art.3(1) of that Convention, an alien married to a national of a State Party may acquire the

latter's nationality at her request by way of preferential naturalisation proceedings.

Since the entry into force on 1 September 1983 of the aforementioned Amendment the position under its s.7 has been that children acquire Austrian nationality ex lege if at least one parent - regardless whether their father or their mother - is an Austrian national or had Austrian nationality at the time of his or her death before the child's birth.

Art. 10

In Austria male and female apprentices enjoy completely equal status in on-the-job training, i.e. the relevant legal provisions, in particular those on vocational training, do not discriminate against female apprentices. Likewise those provisions of the Vocational Training Act which are significant in the context of employment policy treat female and male apprentices on a completely equal footing, e.g. the possibility provided for in s.8(3) of the Vocational Training Act of increasing the maximum number of apprentices in individual cases under certain conditions by administrative decision.

Equality between men and women in the field of education as stipulated by Art.10 is also safeguarded by Austrian law with respect to universities. There is no discrimination against women with regard to access to universities as well as to counselling services, curricula und examinations, assistance programmes for students etc. This is reflected in the fact that the proportion of women among first immatriculations of regular students of Austrian nationality is about 46%, which means an increase by 17 percentage points since 1970.

No explicit provisions implying any stereotyped concept of the roles of men and women are to be found in the norms laid down by educational law. The formal principle of coeducation has been adopted (for public schools), and public schools are accessible without distinction on the basis of sex. In particular,

the creation of common practical (handicrafts) instruction for girls and boys in elementary schools as well as the possibility enshrined in the School Organisation Act to offer mixed practical classes to boys and girls in other types of schools are in line with the intentions of the Convention.

The 6th Amendment to the School Organisation Act meant another important step to eliminate stereotyped concepts of the roles of men and women. Thus in formulating the aims of the "polytechnic" course in the context of vocational orientation and assisting pupils in choosing a vocation, the assignment of domestic economy subjects to girls was no longer retained. Essentially the types and forms of schools set up under the School Organisation Act do not differentiate between male and female pupils.

The 7th Amendment to the School Organisation Act added further provisions to ensure equality in practice between the curricula offered to men and women. It may be mentioned in this context that training schools for kindergarten teachers now accept men as well as women. The names of these schools have been changed accordingly and the "dead end" of their programmes was eliminated by offering students the possibility to take the matriculation exam after finishing their course, and both these steps should help to make this type of training attractive to women and men.

After the abolition of the special schools for training female handicrafts teachers, training for teachers of textile handicrafts at general compulsory schools is now offered at the country's pedagogic academies. The same rule applies to training of teachers of domestic economy for these types of schools. This means that teacher training in these subjects was upgraded from the middle level previously reserved to women, and is now accessible to both sexes. The transfer of these courses to the pedagogic academies has raised their standing and has given them equal status with other subjects.

Likewise the lengthening of elementary school teacher training to 6 semesters, i.e. its upgrading to the level of training programmes for higher elementary school teachers, teachers of polytechnic courses and special school teachers, means that all compulsory school teachers now get equivalent training. This is of particular benefit to female students, because their proportion in elementary school teacher training is about 92%, and in higher elementary school teacher training it is about 75%.

The standards laid down in Art.10 have in principle been met since the adoption of the new school legislation package in 1962. Specifically we would like to draw attention in this context to the equality of access for men and women to the various types of schools, to the general principle of coeducation and to the equality of opportunity for male and female pupils in obtaining financial assistance under the Financial Assistance to Pupils Act.

Of significance in this context are also the constant efforts on the part of the authorities in approving textbooks and audiovisual teaching materials to avoid unjustified and obsolete role assignment to women and men.

Vocational guidance within the meaning of the Employment Promotion Act means the assistance offered to individuals in choosing an occupation and a career while paying appropriate attention to their abilities and their opportunities on the labour market.

It is up to each individual whether and to what extent he or she wants to use these services. But vocational guidance services are also governed by the principle that no one may be discriminated against or preferred on account of his or her sex, descent, race or religious or political views.

With reference to lit.(e) it may be added that the advanced training programmes offered by the Federal Administrative Academy are equally accessible to men and women.

With reference to lit.(f) it may be noted that s.23(5) of the Vocational Training Act adopted in 1972 offers adults the possibility to sit for the final examination for apprentices. In this way the intensive training programmes subsidised under the Promotion of Employment Act also give women over 21 a chance to start or resume vocational training.

With reference to lit.(h) it is worth mentioning that the Federal Government has given assistance to family and partner counselling services since 1974 by paying their personnel costs. Counselling services are run by state or local authorities or by juridical persons of a private-law nature. One precondition for receiving assistance is that the service must offer advice on family planning and advice to expectant mothers on legal and social matters (conflict situations). In addition, most counselling services offer advice on social and legal family problems and on partnership problems. At present there are 152 counselling centres which gave advice in about 92,000 cases in 1980.

Within the framework of maternity, infant and youth welfare, the states and the local authorities have for many years offered educational counselling by university-trained specialists. In 1980 the number of cases was 29,222 and in 1981 it was 35,282.

Art.11

This Article is not to be understood to mean that the rights enumerated must be ensured as such but that if they are guaranteed, they must be applied equally to women and men.

In the private business sector, efforts have been going on in Austria for many years to eliminate the split labour market by means of special initiatives (posters, focussed aids and incentives). Although some success has been achieved, the elimination of the behaviour patterns and economic structures primarily responsible for the existence of the split labour market is a lengthy process.

In the public services, the rights stipulated by the Article have very largely been put into effect at the statutory level. But since legal equality is not enough, a special programme to assist women members of the public services was worked out in Austria in the course of 1981 and it entered into effect in November 1981. This programme comprises measures aimed at helping female public servants to actually avail themselves of the equal rights guaranted to them by statute. In March 1984 all federal services will render a first report on their activities in this area to the Cabinet.

We have the honour to expressly refer to the reservations declared by Austria with respect to this Article concerning the Worker Protection Act and the prohibition of night work by women. The following statements are to be understood in the light of this reservation.

Particularly worth mentioning in this context are also the ILO Conventions (No.4 and 89) on night work by women and night work by women in industry which have been ratified by Austria. It may be noted inthis context that Art.11(2)(d) of the Convention limits special protection for women to pregnancy in types of work proved to be harmful to them.

Para.(1)(a)

A "right to work" is contained in several international documents which are also in force in Austria:
Art.I of the European Social Charter,
Art.6(1) of the International Covenant on Economic, Social and Cultural Rights,
Art.5(e) of the International Convention on the Elimination of All Forms of Racial Discrimination.

The right to work is recognised in Austria insofar as the Austrian Federal Government endeavours to reach and maintain a high and stable level of employment with the ultimate aim being full employment.

However, in Austria's view the obligation is only to recognise the realisation of the right to work as an objective and to take all appropriate and possible measures for that purpose. There is

no obligation to grant a subjective right according to this view.

Para.(1)(b)

"Employment opportunities"

A Federal Act passed in 1976 lays down a number of prohibitions to employ female workers for certain types of work. Further there is a prohibition of night work for women. The Federal Act on the Employment of Children and Young People also contains prohibitions of certain types of work, differentiating on the basis of sex.

"Criteria for selection"

Under present law a prospective employer is not forbidden to choose his selection criteria himself - including sex, training, age etc. Currently there are no statutory rules limiting the employer's choice with regard to a prospective employee's sex.

In this context we may mention ILO Convention No.111 on discrimination in employment and work ratified by Austria. Its provisions stipulate among other things the abolition of any provisions under which persons are excluded on grounds inadmissible under the terms of the Convention from applying for a specific job.

In the public service, s.4 of the Service Regulations Act is the statutory foundation of the right to enjoy equal opportunities for work, and stipulates the application of equal selection criteria in the employment of public servants.

Para.(1)(c)

The "right to free choice of profession and employment" has been enshrined in Austria under Art.18 of the Basic Law since 1867 without limitations. Additional protection within the framework of fundamental rights is provided by Art.4 of the European Convention on Human Rights in specific areas.

With respect to the right to free choice of profession reference may also be made to Art.1(2) of the European Social Charter and

to Art.6(1) of the International Covenant on Economic, Social and Cultural Rights. Under Art.6 of the Basic Law every national can practise every kind of gainful activity subject to the conditions of Austrian law at any place within the boundaries of the country, and Art.18 of the same statute gives everyone the right to choose his vocation and to train for it how and where he wishes. The same is true of the free choice of employment if it is understood to mean the possibility for every citizen to freely choose a job among the possibilities offered by the labour market.

Art. 11(1)(c) which guarantees the right to free choice of profession and employment means in conjunction with Art.1 that any distinction made between the sexes which hampers the free choice of employment and profession is to be regarded as a discrimination unless the distinction is recognised as justified by the Convention itself. In the present context Art.4(2) may be considered to be a provision of the Convention justifying such distinctions. According to that clause, special measures adopted by States Parties are not discriminatory if they are aimed at protecting maternity. Hence this provision permits distinctions only to the extent that they are adopted for the protection of expectant mothers of for the protection of a woman's health immediately after childbirth. Under Austrian labour law, on the other hand, the protective provisions for women are not restricted to the protection of pregnant women or to the protection of women immediately after childbirth.

It should also be noted that women enjoy special protection under the Workers Protection Act and the Regulation issued by the Federal Minister of Social Affairs in November 1976 on prohibitions and restrictions relating to work assigned to women: they may not be employed on certain types of work or may only be so employed under certain conditions (these provisions apply without prejudice to the stipulations of the Protection of Mothers Act). These prohibitions and restrictions relate to jobs involving special risks to the life and health of women workers in view of the physical constitution and

physical strength of women or in view of other characteristics of the type of work in question.

Special measures aimed at protecting maternity within the meaning of Art.4(2) also include special welfare services for pregnant women, women after childbirth, babies and young children as well as the free provision of facilities for counselling pregnant women and mothers of infants and young children offered under the state implementation laws to the Youth Welfare Act; and they also include the various forms of assistance offered by the agencies of public youth welfare within the framework of maternity and infant care.

Section 4 of the Public Service Regulations Act provides that the applicant best suited should be chosen for each post. Since this means that the applicant's sex cannot be a factor in this choice, this provision too is aimed at avoiding the discrimination against women in the public service.

In the proposed amendment of the Labour Market Promotion Act relating to the tasks of the employment service, it is planned to enshrine the following principle which is already being applied in practice: "The employment service shall seek equal treatment of women and men on the labour market, unless statutory provisions provide otherwise."

A "right to promotion" does not exist in Austria either for men or for women. As already stated with reference to lit(a), therefore, such a right is to be understood in Austria not as a subjective right but as an obligation to introduce equal terms of promotion for men and women. However, the right to just and favourable conditions of work is recognised under Art.7(c) of the International Covenant on Economic, Social and Cultural Rights. The purpose of this provision is in particular to guarantee equal opportunities for everyone to rise to higher career levels, and in this respect no other criteria than seniority and qualifications may be considered.

Also in the area of the right to exercise trades and engage in business, with the entry into force on 1 August 1974 of the

Trading and Industrial Code 1973, Federal Law Gazette No.50/1974, the last, relatively minor, restriction on women's rights to engage in trades and business was abolished, so that women now enjoy complete equality with men in the field of trading and industrial law.

Nor do the regulations relating to Chambers of Commerce make any distinction between men and women.

Para.(1)(d)

The "right to equal remuneration in respect of work of equal value" is stipulated by ILO Convention No.100 which has been ratified by Austria. This right is also enshrined in Art.7(1)(i) of the International Covenant on Economic, Social and Cultural Rights and in Art.4(3) of the European Social Charter. Of direct significance to this question is the Equal Treatment Act cited before which also applies to conditions of work under the Agricultural Work Act. The core of the Act is the imperative that treatment must be equal (s.2) which means that no one may be discriminated against on the basis of sex in fixing remuneration. As an additional instrument to ensure the application of this rule the Equal Treatment Commission in the Federal Ministry of Social Affairs was set up, as has also been mentioned before. But independently of the work of and any petitions to the Commission, under the above-mentioned imperative, any worker may at any time turn to the competent labour court to safeguard his or her rights to remuneration.

In the public service, men and women have an automatic right to equal remuneration since the salary rates make no reference to an official's sex.

Para.(1)(e)

Here the relevant legislation does not discriminate against women either in the private or in the public sector. This includes unemployment benefits. Existing different conditions for getting emergency assistance are now being discussed within the framework of the debate on family reform.

Para.(1)(f)

Austrian labour law and the Protection of Public Servants Act do not include any distinctions on the basis of sex.

Para.(2)(a)

With respect to the prohibition of "discrimination on the basis of marital status" in relation to an employee's dismissal, the following may be noted: Section 105 of the Labour Relations Act gives the employee the possibility to contest a dismissal if it is "socially unjustified". In examining the question whether a dismissal is socially unjustified or not, no distinctions on the basis of marital status may be made. Only insofar as the employee's marital status entails obligations to care for dependents, these obligations must be taken into account. Thus, since the criterium is not marital status in itself but the obligation to care for a dependent, this provision is also consistent with the aims of the Convention.

In the public service, too, the Protection of Mothers Act with its special provisions for female employees guarantees the widest possible protection to these female public servants.

Para.(2)(b)

"Maternity leave" is the period of 8 weeks before and after delivery under ss.3 and of the Protection of Mothers Act.

We also refer to provisions of Art.10(2) of the International Covenant on Economic, Social and Cultural Rights and to Art.8 of the European Social Charter. Austria has also ratified ILO Convention No.103.

Para.(2)(c)

The network of kindergartens and day homes existing in Austria is considered to be sufficient by Austria in relation to the standards laid down in the Convention. This is shown by the following table (see the next page).

/Legend to the table:

Children in day homes and their proportion of the population

Table III

Number of children in day-care centres and percentage of the corresponding age-group, 1954/55 - 1980/81: AUSTRIA

Year	Sex	Number of children over 3 and under 4			Number of children over 4 and under 5			Number of children over 5 and under 6		
		Number of children over 3 and under 4 1/	Number of children over 3 and under 4 in day-care centres	Number of children over 3 and under 4 in day-care centres, as a percentage of the age-group	Number of children over 4 and under 5 1/	Number of children over 4 and under 5 in day-care centres	Number of children over 4 and under 5 in day-care centres, as a percentage of the age-group	Number of children over 5 and under 6 1/	Number of children over 5 and under 6 in day-care centres	Number of children over 5 and under 6 in day-care centres, as a percentage of the age-group
1954/55	Total	96 250	14 967	15.2	98 429	20 765	21.0	102 347	23 389	23.1
	Incl. girls	47 250	7 179	15.0	48 427	10 234	21.1	50 492	11 945	23.7
1955/56	Total	107 036	15 872	14.8	96 126	20 196	21.2	98 709	23 875	24.2
	Incl. girls	52 321	7 374	13.9	47 224	10 052	21.3	48 379	11 828	24.4
1956/57	Total	97 266	14 121	14.5	96 931	20 545	21.2	96 234	22 474	23.4
	Incl. girls	47 622	7 089	14.9	47 274	10 106	21.4	47 156	10 978	23.3
1957/58	Total	98 439	15 301	15.5	97 168	21 178	21.8	96 845	23 672	24.4
	Incl. girls	48 241	7 774	16.1	47 572	10 415	21.9	47 242	11 637	24.6
1958/59	Total	103 098	23 359	22.7	98 150	23 873	24.3	97 092	20 769	21.4
	Incl. girls	50 522	11 828	23.4	48 207	11 893	24.7	47 538	10 230	22.5
1959/60	Total	110 241	23 553	21.4	103 002	24 542	23.8	98 265	22 114	22.5
	Incl. girls	54 300	11 806	21.7	50 487	12 127	24.0	48 175	10 928	22.7
1960/61	Total	112 953	23 960	21.2	110 120	26 812	24.3	102 929	24 074	23.4
	Incl. girls	54 996	11 883	21.6	54 253	13 337	24.6	50 454	11 977	23.7
1961/62	Total	114 368	23 791	20.8	113 174	28 025	24.8	110 282	26 715	24.2
	Incl. girls	56 052	11 797	21.0	55 163	13 982	25.2	54 400	13 327	24.5
1962/63	Total	119 380	24 252	20.3	114 277	28 736	25.1	113 084	28 441	25.2
	Incl. girls	58 200	12 135	20.9	56 012	14 079	25.1	55 128	13 962	25.1
1967/68	Total	129 525	23 738	18.3	130 103	33 779	25.7	128 315	41 530	32.4
	Incl. girls	63 693	11 846	18.6	63 996	16 407	25.6	62 767	20 483	32.6
1968/69	Total	125 891	18 742	14.9	129 446	34 863	26.9	130 019	44 065	33.9
	Incl. girls	61 634	9 265	15.0	63 615	17 111	26.9	63 962	21 509	33.6
1969/70	Total	124 556	18 354	14.7	125 302	36 053	28.7	129 378	46 377	35.9
	Incl. girls	61 112	9 101	14.9	61 598	17 610	28.6	63 593	22 805	35.9
1970/71	Total	123 716	18 473	14.9	124 468	36 800	29.6	125 720	49 007	39.0
	Incl. girls	60 487	9 132	15.1	61 068	18 046	29.6	61 563	23 968	38.9
1971/72	Total	123 226	18 989	15.4	124 409	39 754	32.0	125 252	51 137	40.8
	Incl. girls	59 954	9 365	15.6	60 588	19 433	32.0	61 308	24 898	40.6
1972/73	Total	117 739	16 795	14.3	123 140	41 334	33.6	124 360	56 324	45.3
	Incl. girls	57 684	8 415	14.6	59 815	20 134	33.7	60 663	27 480	45.3
1973/74	Total	108 934	16 448	15.1	117 670	41 857	35.6	123 078	61 891	50.3
	Incl. girls	53 329	8 171	15.4	57 560	20 543	35.6	59 796	29 938	50.1
1974/75	Total	105 447	17 739	16.8	108 363	42 736	39.3	117 520	65 270	55.5
	Incl. girls	51 490	8 888	17.3	53 004	21 051	39.7	57 539	31 945	55.4
1975/76	Total	101 202	19 153	18.9	105 377	46 043	43.7	108 820	65 249	60.0
	Incl. girls	49 445	9 605	19.4	51 463	22 679	44.1	52 981	31 837	60.1
1976/77	Total	95 471	20 216	21.2	101 158	47 299	46.8	105 334	65 979	62.6
	Incl. girls	46 569	10 227	22.0	49 428	23 232	47.0	51 445	32 181	62.6
1977/78	Total	94 954	22 667	23.9	95 437	47 527	49.9	101 115	67 369	66.6
	Incl. girls	46 413	11 467	24.7	46 556	23 354	50.2	49 412	32 987	66.8
1978/79	Total	91 530	23 014	25.1	94 907	50 047	52.7	95 397	66 297	69.5
	Incl. girls	44 734	11 486	25.7	46 394	24 764	53.4	46 542	32 222	69.2
1979/80	Total	85 721	22 606	26.4	91 601	50 110	54.7	94 368	68 307	72.0
	Incl. girls	41 592	11 333	27.2	44 594	24 593	55.0	46 377	33 396	72.0
1980/81	Total	83 367	23 946	28.5	85 683	48 861	57.0	91 564	67 861	74.1
	Incl. girls	40 911	12 107	29.6	41 679	24 051	57.7	44 678	33 037	73.9

1/ In each case, the figure represents the population at the end of the year, not including migration calculated by updating the population figures of the 1951, 1961 and 1971 censuses.

of the same age, 1954/55 - 1980/81 in Austria.

From left to right:
Year
Sex (total, female)
3 to under 4 age group
   3 to under 4 population
   3 to under 4 children in day homes
   Percentage share of 3 to under 4 children
   in day homes in relation to the
   population of the same age

The other two columns contain the same information for the 4 to below 5 and 5 to below 6 age groups.

Footnote (1). Population at end of year excluding migrations, on the basis of forward projections from the 1951, 1961 and 1971 censuses./

Para.(2)(d)

The requirements of this provision are fully met by the Protection of Mothers Act.

Art.12

The obligation contained in para.(2) to provide appropriate services in connection with pregnancy and during and after confinement is met not only within the framework of maternity, infant and youth care through the state implementation laws to the Youth Welfare Act but also by the states' social assistance legislation. It is the duty of the public social welfare agencies to help expectant mothers and women in confinement who are in need of assistance. This help comprises all medical and social services required in connection with pregnancy and childbirth, including admission to suitable facilities and financial assistance.

As regards family planning we refer to the federal law on assistance to family counselling services mentioned in Art.10(h).

Para.(2)

The services referred to in para.(2) are generally provided by the Austrian social security system which is based on social security contributions. In emergencies, women get free services under the social welfare system.

Art.13(a)

This principle was put into practice by the Family Equalisation of Burdens Act 1967, under which men and women have the same right to obtain family benefits. Where parents disagree over who is to receive the benefits, the authorities must see to it that the benefit goes to the parent who assumes the chief responsibility for the care of the child. Here too no distinction is made on the basis of sex as regards the person to whom the benefits are disbursed (see ss.2 and 11 of the Family Equalisation of Burdens Act 1967).

Art. 14

The Equal Treatment Act also covers female agricultural workers. Adequate facilities no doubt include the provision of suitable living accomodation. This is the purpose of the Promotion of Housing Construction Act (among other laws) and the assistance provided under the Act includes rural areas; the Act makes no difference between the sexes.

Art.14(2)

The Federal Act of 30 June 1982 on assigning helpers to mothers active in private business or in agriculture and forestry (or providing a monetary equivalent) took away much of the burden borne by rural women.

Under the Act, these women are entitled to the services of a helper for the last eight weeks before childbirth, for the day of birth and for the first eight weeks after confinement. The helper is a person qualified for the work of a farmer's wife or businesswoman.

In this way, it is ensured that a mother does not have to work during the statutory protected period (8 weeks before and 8 weeks after delivery) even if she is self-employed or a farmer's wife. A financial benefit may take the place of this practical help.

In addition, the State Secretariat for General Women's Questions has set up a special permanent working group to monitor the problems of rural women.

Lit.(b)

Again, as in regard to Art.12, reference is made to the Federal Act providing assistance to family counselling services.

Art.15

This Article contains the general obligation for the States Parties to accord women equality with men before the law, and then goes on to specify this principle.

Legal capacity in civil matters referred to in para.(2), i.e. the capacity to have (private) rights and duties and the capacity to establish through one's own action (private) rights and duties, is regulated in Austria in a manner which does not refer to the person's sex. The abolition in 1978 of the husband's legal power to represent his wife with respect to the administration of her property, by Federal Act No.280/1978, has assured that women now have equal rights to administer property.

Moreover, civil law makes no distinction between men and women with respect to the capacity to be a party to civil proceedings or to bring civil suits.

Under para.(3), all contracts and all other private instruments of any kind with a legal effect directed at restricting the legal capacity of women shall be null and void. This might be achieved by way of appealing to general clauses of private law such as s.879(1) of the Civil Code ("A contract contra bonos mores is null and void"). The decision lies with the courts.

As regards a woman's right to free movement and free choice of residence and domicile, equality in civil law between men and women as regards choice of residence has been ensured since 1975 when a Federal Act abolished the wife's obligation to follow her husband to his residence and replaced it by an obligation incumbent on both spouses to live together.

Art.16

This Article provides that the States Parties shall take all appropriate measures to eliminate discrimination against women in matters relating to marriage and family relations; the Article then goes on to enumerate some of these rights:

Equality between men and women with respect to marriage and children has been largely realised. Federal Acts No.412/1975 and 430/1977 rendered important contributions by introducing partnership in marriage as a legal principle and giving a legitimate child's mother the same rights as the father. Only with respect to the legal status of an illegitimate child has equality between men and women not yet been fully achieved: thus the mother of an illegitimate child has precedence over the father in respect of the right to care for and educate the child (s.170 of the Civil Code) and when the legal guardian is appointed for an illegitimate child, the father must meet stricter criteria than the mother (s.198 of the Civil Code).